



**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF  
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)

**RECEIVED**

**JUN 20 2012**

**OFFICE OF PETITIONS**

Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450  
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent Number: 5,623,978

Application Number: 688,692

Issue Date: April 29, 1997

Filing Date: July 29, 1996

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

☐ is a reissue of original Patent No. \_\_\_\_\_ original issue date \_\_\_\_\_;  
original application number \_\_\_\_\_  
original filing date \_\_\_\_\_

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application  
\_\_\_\_\_ filed on \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

June 8, 2012  
Date

[Signature]  
Signature

Zyle Clemenson  
Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

## 2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

## 3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input type="checkbox"/> \$ _____	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input checked="" type="checkbox"/> \$ <u>1,425</u>	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ \_\_\_\_\_

## 4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ \_\_\_\_\_ (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 75.00

## 5. MANNER OF PAYMENT

- ☒ Enclosed is a check for the sum of \$ 1,500
- ☐ Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_
- ☐ Payment by credit card. Form PTO-2038 is attached.

## 6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. \_\_\_\_\_

## 7. OVERPAYMENT

As to any overpayment made, please

☐ Credit to Deposit Account No. \_\_\_\_\_

OR

☐ Send refund check**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

## 8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

## 9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.

*Lyle Clemenson*  
Signature(s) of Petitioner(s)

June 8, 2012  
Date

Lyle Clemenson  
Typed or printed name(s)

Registration Number, if applicable

100 N. 74th Way  
Address

763-951-3294  
Telephone Number

Brooklyn Park, MN 55444  
Address

## ENCLOSURES:

- ☒ Maintenance Fee Payment  
☒ Statement why maintenance fee was not paid timely  
☐ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)  
☐ Other: \_\_\_\_\_

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

  
Signature

Kyle Clemenson  
Type or printed name

June 8, 2012  
Date

Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

The delay of maintenance fee payments resulted from:

A. After having had our company doing business at our location for over 20 years the Minnesota Highway Department came and Eminent Domained us out of our location to build a freeway. Even though we had some of our costs reimbursed there were other costs to the company---we were not able to do marketing of our products for many months. In this move we lost paperwork, records, time, employees, & profits not reimbursed. Had we been left at our location we believe we would have had our paperwork in order and the maintenance fees taken care of.

B. We failed to know/remember that USPTO did not send maintenance fee reminders

In summation, had we not had the above things take place we would have been more attentive to maintaining our paperwork and the necessary fees would have been paid. In the future we plan to do a better job of maintaining our paperwork.

(Please attach additional sheets if additional space is needed)